

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5511 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

NAVALSINH M GOHIL

Versus

STATE OF GUJARAT

Appearance:

None present for Petitioner

MR SP HASURKAR for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/06/1999

ORAL JUDGEMENT

#. Heard the learned counsel for the respondents.

#. Rule. The learned counsel for the respondents waives service of Rule on behalf of respondents. The matter is taken up for final hearing looking to the nature of the case.

#. The petitioner, an armed constable in S.R.P. Group-13, Rajkot, was dismissed after holding departmental inquiry against him in which he was found guilty of charges. He preferred appeal against the order of his dismissal from services to the appellate authority which came to be rejected under the communication dated 29th November 1995. This special civil application has been filed in the year 1998. The appeal filed by the petitioner has been dismissed only on the ground of delay of filing of the same. However, looking to the facts of this case, I consider it to be in the larger interest of justice that the petitioner may have an opportunity to explain delay which is there or which is caused in filing of the appeal before the appellate authority.

#. In the result, this Special Civil Application is allowed and the order dated 29th November 1995 of the appellate authority is quashed and set aside. The petitioner is at liberty to submit an application for condonation of delay giving therein the cause for delay in filing of the appeal. The appellate authority is directed to consider that application and in case the petitioner has made out a case for condonation of delay in filing of the appeal, accordingly delay may be condoned and the appeal may be decided on merit. However, this decision may not be taken as if this Court has given direction to the appellate authority to condone the delay in all circumstances. The appellate authority has to decide the application for condonation of delay in accordance with law and at its discretion. The Special Civil Application and Rule stand disposed of accordingly. No order as to costs.

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[sunil]